

**TITLE 326 AIR POLLUTION CONTROL BOARD**

**FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO  
IC 13-14-9-8 AND DRAFT RULE  
#98-14(APCB)**

**DEVELOPMENT OF NEW RULES CONCERNING INCORPORATION OF  
NATIONAL EMISSION STANDARDS FOR ORGANIC HAZARDOUS AIR  
POLLUTANTS FOR SYNTHETIC ORGANIC CHEMICAL MANUFACTURING AND  
CERTAIN OTHER SOURCES**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language to incorporate by reference Title 40 of the Code of Federal Regulations, Part 63 (40 CFR 63), Subparts F, G, H, and I, which applies to synthetic organic chemical manufacturing industry (SOCMI) production processes and certain other processes and has scheduled a public hearing/meeting before the air pollution control board (board) for consideration of preliminary adoption of these rules.

**CITATIONS AFFECTED:** 326 IAC 20-11; 326 IAC 20-12.

**AUTHORITY:** IC 13-14-8; IC 13-14-9-8; IC 13-17-3.

**STATUTORY REQUIREMENTS**

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines

that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:

(A) exposing the rule to diverse public comment under IC 13-14-9-3 or IC 13-14-9-4;

(B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

## **BACKGROUND**

On April 22, 1994 (59 FR 19402) and June 6, 1994 (59 FR 29196), the United States Environmental Protection Agency (U.S. EPA) adopted final rules to regulate the emissions of certain organic hazardous air pollutants (HAP) from synthetic organic chemical manufacturing industry (SOCMI) production processes and certain other processes at major sources. These rules comprise what is known as the Hazardous Organic National Emission Standards for Hazardous Air Pollutants, or the HON. The requirements of the rules will result in significant reductions in emissions of hazardous air pollutants and volatile organic compounds, which are precursors of ozone. The HON emission standards are applicable to major HAP sources statewide.

IDEM has identified five (5) sources subject to the HON. They are: G.E. Plastics, Reilly Industries, Amoco Chemical, and two (2) Eli Lilly facilities. Because Indiana has major sources subject to the HON, IDEM is required to adopt the federal provisions into state rules in order to fulfill requirements of the Part 70 operating permit program.

The HON regulates HAP emissions from process vents, transfer operations, storage vessels and wastewater at SOCMI sources, and equipment leaks at SOCMI and certain non-SOCMI sources. The emission limits and equipment leak requirements reflect the application of maximum achievable control technology (MACT) consistent with Section 112(d) and 112(h) of the 1990 Clean Air Act (CAA). The HON establishes specific control requirements for process vents, transfer operations, storage vessels, and wastewater called the Reference Control Technology (RCT). The equipment leak requirements include a leak detection and repair (LDAR) program.

Certain emission points are allowed flexibility to achieve compliance through the use of the specified RCT, emissions averaging, or a combination of RCT and emissions averaging. The HON also contains compliance monitoring, record keeping, and reporting requirements.

The primary compliance date for process vents, storage vessels, transfer operations, and wastewater is April 22, 1997. The compliance date for certain wastewater streams, heat exchange systems, and associated equipment has been delayed in the most recent amendment to the rule (62 FR 2722). The compliance dates for SOCFI and non-SOCFI sources subject to the equipment leak requirements are dependent on the group assigned to the process with the last grouping having a compliance date of October 23, 1995. The equipment leak compliance dates for certain units meeting specific criteria have also been delayed; however, all units subject to the LDAR requirements must also be in compliance by April 22, 1997.

Subsequent to the original promulgation of the HON, U.S.EPA has undertaken a number of supplemental actions to clarify various aspects of the rule. Interested persons are referred to the following Federal Register notices for further information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR 18026); December 12, 1995 (60 FR 63624); February 29, 1996 (61 FR 7716); June 20, 1996 (61 FR 31435); August 26, 1996 (61 FR 43698); December 5, 1996 (61 FR 64571); and January 17, 1997 (62 FR 2722).

In order to streamline the state incorporation of these multiple federal rulemakings, IDEM is proposing to incorporate 40 CFR 63, Subparts F, G, H, and I, as of July 1, 1996, and two (2) subsequent final rule amendments. The amendments include the December 5, 1996 (61 FR 64571) and January 17, 1997 (62 FR 2722) Federal Register notices. This approach eliminates the need to incorporate changes made to the HON prior to July 1, 1996. The state rulemaking consists of two (2) draft state rules. One (1) draft rule is for SOCFI sources that are subject to Subparts F, G, and H of 40 CFR 63. The other draft rule is for non-SOCFI sources that are subject to the equipment leak detection and repair programs included in Subpart H, as defined in 40 CFR 63, Subpart I.

## **FINDINGS**

The commissioner of IDEM has prepared findings regarding rulemaking on incorporation by reference of 40 CFR 63, Subparts F, G, H, and I, as required by federal rule. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana, and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.

(2) Indiana is required by federal law to adopt National Emission Standards for Hazardous Air Pollutants (NESHAPs) as established by the United States Environmental Protection Agency.

(3) The public will benefit from prompt adoption of this rule because it will result in reduction of hazardous air pollutants and volatile organic compounds, precursors of ozone.

(4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.

(5) The draft rule is hereby incorporated into these findings.

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John M. Hamilton  
Commissioner  
Indiana Department of Environmental Management

#### **ADDITIONAL INFORMATION**

Additional information regarding this action may be obtained from the Office of Air Management from Roger Letterman, Rule Development Section, (317) 232-8342 or (800) 451-6027 ext. 3-8342 (in Indiana) or Jon Bates, Program Planning and Policy Section, (317) 233-4226 or (800) 451-6027 ext. 3-4226 (in Indiana).

#### **DRAFT RULE**

SECTION 1. 326 IAC 20-11 IS ADDED TO READ AS FOLLOWS:

##### **Rule 11. Synthetic Organic Chemical Manufacturing Industries**

##### **326 IAC 20-11-1 Applicability; incorporation by reference of federal standards**

**Authority:** IC 13-17-3-4; IC 13-17-3-11

**Affected:** IC 13-15; IC 13-17

**Sec. 1. (a) This rule applies to chemical manufacturing process units and to related emission points as defined in 40 CFR 63.101, as provided in 40 CFR 63.100\*.**

(b) The air pollution control board incorporates by reference 40 CFR 63, Subparts F, G, and H, sections 63.100 through 63.182, 61 FR 64572 (December 5, 1996) and 62 FR 2722 (January 17, 1997)\*, national emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry.

\*Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-11-1*)

SECTION 2. 326 IAC 20-12 IS ADDED TO READ AS FOLLOWS:

**Rule 12. Processes Subject to the Negotiated Regulation for Equipment Leaks**

**326 IAC 20-12-1 Applicability; incorporation by reference of federal standards**

**Authority:** IC 13-17-3-4; IC 13-17-3-11

**Affected:** IC 13-15; IC 13-17

**Sec. 1. (a)** This rule applies to processes and to related emission points as defined in 40 CFR 63.191, as provided in 40 CFR 63.190\*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subparts H and I, sections 63.160 through 63.193, as amended by 62 FR 2722 (January 17, 1997)\*, national emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulation for equipment leaks.

\*Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-12-1*)

***Notice of First Meeting/Hearing***

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on March 4, 1998 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on incorporation by reference of the hazardous organic NESHP (HON).*

*The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the incorporation by reference of the HON. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

*Additional information regarding this action may be obtained from the Office of Air Management from Roger Letterman, Rule Development Section, (317) 232-8342 or (800) 451-6027 ext. 3-8342 (in Indiana) or Jon Bates, Program Planning and Policy Section, (317) 233-4226 or (800) 451-6027 ext. 3-4226 (in Indiana).*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: Carolyn Moorman, ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015*

*or call (317) 233-0544 (V) or (317) 232-6565 (TT). Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file at the Office of Air Management, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, Indiana Government Center-South, 302 West Washington Street, Room E011, Indianapolis, Indiana and are open for public inspection.*